

HOUSE BILL 895

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4 and Title 67, Chapter 6, relative to the taxation of video programming services and video programming service providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-539, is amended by deleting the section in its entirety and by substituting instead the following:

Section 67-6-539.

(a)

(1) For purposes of this section, a bundled transaction means the retail sale of two (2) or more services, where:

(A) The services are otherwise distinct and identifiable; and

(B) The services are sold for one (1) nonitemized price.

(2) A bundled transaction does not include the sale of any services in which the sales price varies, or is negotiable, based on the selection by the purchaser of the services included in the transaction.

(b) Notwithstanding any other law to the contrary, in the case of a bundled transaction of telecommunication services, ancillary services, Internet access services, or audio or video programming services, such as cable, wireless cable, or direct-to-home satellite television programming services:

(1) If the price is attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services shall be subject to tax, unless the provider can identify, by reasonable and verifiable standards, such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to,

nontax purposes; provided, that any nontaxable services bundled with video programming services shall be taxable in any case.

(2) If the price is attributable to services that are subject to tax at different tax rates, the total price shall be treated as attributable to the services subject to tax at the highest tax rate, unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes.

(3) If the taxes that would have otherwise been collected on the distinct and identifiable services would have been designated to different funds or purposes, such designation shall be based on the same allocation utilized in subdivision (b)(1) or (2). However, if the total of the bundled transaction was subjected to tax or subjected to tax at the higher combined state and local rate, a reasonable allocation method approved by the commissioner shall be made for designation of the taxes to the different funds or purposes.

(4) The provisions of this section shall apply unless otherwise provided by federal law.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.